



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,354	02/17/2004	Volker Dicken	7390-X04-030	9221
27317	7590	06/15/2007	EXAMINER	
FLEIT KAIN GIBBONS GUTMAN BONGINI & BIANCO 21355 EAST DIXIE HIGHWAY SUITE 115 MIAMI, FL 33180			HAJNIK, DANIEL F	
ART UNIT		PAPER NUMBER		
2628				
MAIL DATE		DELIVERY MODE		
06/15/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/781,354	DICKEN, VOLKER	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) The period for reply expires _____ months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) They raise the issue of new matter (see NOTE below);
 (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. Applicant's reply has overcome the following rejection(s): _____.

6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. Other: _____.


 ULKA J. CHAUHAN
 PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: 1. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "Using an organ surface as a reference surface for selecting voxels of the volumetric data that are equidistant to that reference surface allows visualizing an inner layer of the organ that is parallel to the organ surface in a two-dimensional image", bottom of page 3 in remarks and "to provide a 2D projection of an inner layer of an organ, with the inner layer of the object being parallel to the outer layer", upper middle of page 4 in remarks, and "the reference surface not necessarily being planar", also upper middle of page 4 in remarks) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Rather, the claim language specifically talks about "visualizing of the second voxel in a 2-dimensional image, wherein the 2-dimensional image is located at the user selected distance from the surface of the body structure". Under these specific claim language limitations, the examiner is interpreting the limitations slightly different. For example, in figure 2-10 of the Gering reference, the examiner is interpreting "the surface of the body structure" (or first voxel reference surface) to be the lower plane of the images shown in figure 2-10. The examiner is interpreting the second voxels to be part of the tumor as shown, which lays directly above the surface of the body structure. The tumor is shown to have a certain height or distance above the surface of the body structure in the figure. The reference specifically teaches of having a user selected distance in the first paragraph on page 20, where it states "The surface models can then be visualized in the 3D view along with the reformatted slices, and the slices can selectively clip away portions of some models, such as the skin, to reveal other unclipped models beneath, such as a tumor". Thus, the user can set the distance from the reference surface (in respect to the skin and brain) by determining how much of the skin to clip away. This clipping away determines how much of the tumor (second voxels) is displayed. For example, in figure 2-10, a given section of the tumor is shown above the reference surface. The part of the tumor shown has been revealed by selectively clipping away the outer skin and outer volumes. Thus, figure 2-10 shows a visualization of second voxels spaced a user selected distance from the reference surface. The reference of Gering fulfills the requirement of having a 2-dimensional image located a user selected distance as well in figure 1-3 on page 21, where the 2-dimensional image can be considered the top portion. In this instance, the top portion picture can be an image that is a two-dimensional projection of the 3D voxels. Further, the interface in figure 1-3 has interactive controls to set the orientation of this 2-dimensional image projection. Thus, the projection can be located at a user selected distance from the reference surface as well.